

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-4475

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES ANTONIO LEGRANDE,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Thomas David Schroeder, District Judge. (1:10-cr-00312-TDS-1)

Submitted: October 4, 2011

Decided: October 13, 2011

Before NIEMEYER and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

Louis Carr Allen, III, Federal Public Defender, Greensboro, North Carolina, for Appellant. Michael Francis Joseph, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Antonio LeGrande appeals his 151-month sentence for unarmed bank robbery, contending only that the district court improperly sentenced him as a career offender pursuant to U.S. Sentencing Guidelines Manual ("USSG") § 4B1.1 on the basis of several of LeGrande's prior North Carolina convictions. The parties now agree that the case should be remanded to the district court for resentencing in light of our decision in United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). Accordingly, we affirm LeGrande's conviction, grant the parties' joint motion to rescind the briefing order and to remand, vacate the sentence, and remand this case to the district court to permit resentencing. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED IN PART,
VACATED IN PART,
AND REMANDED